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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,699	03/25/2004	Marian Nakada	CEN 5017 USNP	5898
27777	7590	04/03/2007	EXAMINER	
PHILIP S. JOHNSON			HADDAD, MAHER M	
JOHNSON & JOHNSON				
ONE JOHNSON & JOHNSON PLAZA			ART UNIT	
NEW BRUNSWICK, NJ 08933-7003			PAPER NUMBER	
			1644	
			MAIL DATE	
			DELIVERY MODE	
			04/03/2007	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/808,699

Applicant(s)

NAKADA ET AL.

Examiner

Maher M. Haddad

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1,3-7,9,13 and 14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

1. Claims 1, 3-4, 7 and 13-15 stand rejected under 35 U.S.C. 102(b) as being anticipated by WO 02/13763 for the same reasons set forth in the previous Office Action mailed 11/17/06.

Applicant's arguments, filed 3/21/07, have been fully considered, but have not been found convincing.

Applicant argues in conjunction with case law that the WO 02/13763 publication is not enabled.

However, lack of data in the WO '763 publication is not necessary mean lack of enablement. The skilled in the art who is practicing the prior art teachings in necessarily practicing the claimed invention. If the specification is enabling, the prior art is also enabling, and if the prior art is not enabling, neither is the specification.

2. Claims 1, 5-6, 9 and 13-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/13763 in view of US. Pat. No. 6,406,693 for the same reasons set forth in the previous Office Action mailed 11/17/06.

Applicant's arguments, filed 3/21/07, have been fully considered, but have not been found convincing.

Applicant contends that he does not understand the logic of this rejection since neither reference teaches the claimed use of anti-EMMPRIN antibodies in the method of treating an angiogenesis dependent disease such as tumor growth and metastases in the first place.

Contrary to Applicant assertions, the WO '763 publication teaches a method for treating tumor growth or metastasis (angiogenesis-dependent disease) in a patient (human) comprising administering EMMPRIN antagonist such as an anti-EMMPRIN antibody, wherein the antibody is monoclonal antibody, wherein the monoclonal antibody is a Fab and F(ab')₂ fragment, wherein the anti-EMMPRIN antibody binds to an epitope that recognized by the UM-8D6 anti-CD147 monoclonal antibody (see published claims 1-6; page 8, lines 1-17; page 21, line 33 to page 34, line 6; page 26, lines 9-15 and page 57, lines 19-29 in particular), wherein the antibody is administered intravenously (see page 36, line 29 in particular).

3. Claims 1, 4-7 and 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Looksmart publication 2001 (IDS ref) in view of Sameshima et al (IDS ref.) for the same reasons set forth in the previous Office Action mailed 11/17/06.

Applicant's arguments, filed 3/21/07, have been fully considered, but have not been found convincing.

Applicant position is the same as in the previous Office Action, the Examiner's position stands the same.

4. Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Looksmart publication 2001 (IDS ref) in view of Sameshima et al as applied to claims 1, 4-7, 13-15 and 18 above, and further in view of Owens et al for the same reasons set forth in the previous Office Action mailed 11/17/06.

Applicant's arguments, filed 3/21/07, have been fully considered, but have not been found convincing.

Applicant submits that Looksmart and Sameshima do not render the claims obvious, the addition of Owens et al does not add anything to the rejection.

However, based on the totality of the record as detailed above, the evidence of obviousness found in the combined reference teachings with Applicant's argument for nonobviousness. The Examiner concludes that the claimed invention encompassed by instant claims would have been obvious as a matter of law under 35 U.S.C 103(a).

5. Claims 9 and 16-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Looksmart publication 2001 (IDS ref) in view of Sameshima et al as applied to claims 1, 4-7, 13-15 and 18 above, and further in view of US. Pat. No. 6,406,693 for the same reasons set forth in the previous Office Action mailed 11/17/06.

Applicant's arguments, filed 3/21/07, have been fully considered, but have not been found convincing.

Applicant argues that because the primary references, Looksmart and Sameshima, do not fairly teach or suggest the claimed method, the addition of the '693 patent for other anti-angiogenic agents, does not cure the deficiency in the rejection.

However, based on the totality of the record as detailed above, the evidence of obviousness found in the combined reference teachings with Applicant's argument for nonobviousness. The Examiner concludes that the claimed invention encompassed by instant claims would have been obvious as a matter of law under 35 U.S.C 103(a).

MAHER M. HADDAD
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PRIMARY EXAMINER